

of the republic a private accuser, who must be an injured party, started and conducted the prosecution, but the magistrates could proceed on their own motion, upon denunciation, or by inquisitorial process. The last method became the custom under the empire. Prosecutions for treason were thus carried on, and by the end of the empire sorcerers and heretics, as *hostes publici*[^] like traitors, were thus tried. All citizens were bound to denounce such criminals. This procedure was taken up into the canon law, so that the Christian church inherited a system of procedure as well as the doctrines above stated.¹

244. Bishops as inquisitors. In the Carolingian period bishops were instructed to seek out heretics and to secure their conversion, but they rarely distinguished themselves by zeal in this matter. The procedure was that of a grand jury set in motion by common report. Lucius III and Barbarossa, acting together in 1184, prepared a decretal in which the duty of bishops was reaffirmed and an attempt was made to give sharper method to their proceedings. They were to seek out heretics, holders of secret conventicles, or any

who " in any way differed, in
 mode of
 life, from the faithful in
 general." Those who
 refused to be dis-
 ciplined and to conform were
 to be abandoned to the
 secular arm
 for fitting punishment. All
 civil officers were to swear to
 enforce
 laws against heretics. Here
 we find the fundamental
 notions of
 the later Inquisition, but
 zealous executioners were
 wanting. If
 the decretal had been "
 obeyed strictly and
 energetically, it would
 have established an episcopal
 instead of a papal
 Inquisition."
 245. Definition of heretic.
 The definition of a heretic
 just
 quoted occurs often and is
 the only one which could be
 formu-
 lated. A person was as liable
 to be charged with heresy if
 better
 than the crowd as if worse.
 "In fact, amid the license of
 the
 Middle Ages ascetic virtue
 was apt to be regarded as a
 sign of
 heresy. About 1220 a clerk
 of Spire, whose austerity
 subse-
 quently led him to join the
 Franciscans, was only saved
 by the
 interposition of Conrad,
 afterwards Bishop of
 Hildesheim, from
 being burned as a heretic,
 because his preaching led
 certain
 women to lay aside their
 vanities of apparel and
 behave with

¹ Hansen, *Zauberwahn*,
 etc., 100; Lea, *Inquis.* ^ I,
 311.